IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3112 of 2007()

CC.107/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

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PETITIONER: ACCUSED NO.2

FAISAL, MULLAPALLY HOUSE,
THAZHAEKODE, PERINTHALMANNA.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT

STATION HOUSE OFFICER, TIRUR POLICE
STATION, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3112 of 2007

Dated this the 9th day of October, 2007

O R D E R

The petitioner faces allegations under Section 380 r/w Section 511 I.P.C. The petitioner was arrested and released on bail in the course of investigation. But as the petitioner was employed abroad, he could not appear before the learned Magistrate after the final report was filed and cognizance was taken. Coercive processes have been issued by the learned Magistrate to secure the presence of the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful. The petitioner is now willing to appear and apply for bail and co-operate with the court for expeditious disposal of the case. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-